

**Testimony Regarding SB 1130/HB 5647 to the
House Natural Resources, Tourism, and Outdoor Recreation Committee
Representative Frank Foster, Chair**

Presented by
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June 12, 2012

Introduction

Thank you for the opportunity to provide testimony regarding SB 1130/HB 5647.

Tip of the Mitt Watershed Council, on behalf of its 2,300 plus members, wishes to extend our concern with regards to SB 1130/HB 5647 which would remove protections for Critical Sand Dunes. The Watershed Council is opposed to these bills as written and we urge you to oppose the bills.

As a means of introduction, the Tip of the Mitt Watershed Council was founded in 1979 and serves as the lead organization for water resources protection in Antrim, Charlevoix, Cheboygan, and Emmet Counties. The Watershed Council is a nonprofit organization whose purpose is to protect, restore, and enhance water resources, including inland lakes, rivers, wetlands, groundwater, and the Great Lakes shoreline. We base all our programs on sound science and policy analysis, and have garnered respect for our work from local, state, and federal agencies, businesses, fellow environmental organizations, and citizens.

Michigan's sand dunes are unique, fragile, and beautiful ecosystems that are critically important to Western and Northern Michigan's economy and quality of life. In addition to the throngs of summer visitors that delight in experiencing the dunes and their associated beaches, Michigan's dunes are home to unique dune and swale wetland complexes as well as a host of threatened and endangered species. We are privileged to have critical dunes within our 4-County service area. In fact, our area has significant dune complexes that are protected under the Critical Dune Act as we have Critical Dune areas in Antrim, Charlevoix, and Emmet Counties. Subsequently, policy changes to this program are extremely important to our members.

Importance of Critical Dunes to Michigan

Michigan is home to the largest freshwater dune system in the world. This area contains a combination of dunes, and coastal bluffs which provide a great deal of economic and ecological value to the state. In addition to the throngs of summer visitors that delight in experiencing the dunes and their associated beaches, Michigan's dunes are home to unique dune and swale wetland complexes as well as a host of threatened and endangered species. Previous legislative bodies decreed that the critical dunes of the state "are a unique, irreplaceable, and fragile resource that provides significant recreational, economic, scientific, geological, scenic, botanical, educational, agricultural, and ecological benefits to the people of this state and to people from other states and

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countries who visit this resource.” It is critical to protect the legacy of the dunes and to preserve existing law.

These unique areas are coveted for their beauty, recreational, and industrial benefits. Like all coastal areas, sand dunes experience tremendous development pressures and as these pressures for development and redevelopment continue to mount, dunes face a greater risk of destruction. The proposed changes would allow unrestricted development in the dunes, reduce the ability to work with experts to reduce negative impacts of development, and risk irreversible adverse impacts to Michigan’s rare and irreplaceable and highly sensitive dune system.

Assessment of SB 1130/IB 5647

The administration of Michigan’s sand dune regulatory program is essential to the protection and wise management of Michigan’s dunes. Of concern are the changes that make it harder for residents to request a public hearing before the issuance of a permit, prohibit local critical dune zoning ordinances stricter than the state’s model ordinance, and remove the prohibition on permitting uses which are not in the public interest.

Broad public participation is a cornerstone of responsible democratic governance and a fundamental prerequisite to achieve sustainable development. Limiting the ability of Michigan’s citizens to actively engage in public participation by severely restricting who can request a public hearing or a grievance hearing jeopardizes not only Michigan’s natural resources, but also essential community functions. Public participation can contribute to an accounting of the social, economic, and environmental impacts of projects proposed in critical sand dunes, and of how the costs and benefits will affect different segments of society. Therefore, public participation helps to ensure that governments are accountable for their actions and responsive to public interests. Public participation brings not only additional skills, knowledge, concerns, and ideas to the table, but also solutions that might not have otherwise arisen. The proposed bill takes away critical rights of the public, which is not acceptable when the intent of the law is to protect the critical dune ecosystem for the benefit of the public.

Additionally, we are greatly concerned about the impacts the enactment of this bill would have for local governments to protect resources above and beyond what the state allows. Proactive efforts by local governments to preserve the quality of life in their community are part of the rich history of home rule in Michigan. In an era of budget cutting and fiscal conservatism at the state and federal level, local governments are accepting more of the responsibility of environmental protection. In Michigan, local government has traditionally assumed the responsibility for land use control through ordinances. The ability for local governments to protect their community’s character while at the same time protecting the overall public and environmental health for the long term would be severely hindered though the enactment of this bill.

Furthermore, given the importance and fragility of sand dunes, no construction or any other activity which has the potential for encroaching on or otherwise damaging coastal

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primary sand dunes should occur without review and approval. Our state has over 275,000 acres of sand dunes lining the shores of Lake Michigan. Despite the huge impacts that these dunes have on the state's economy and ecology, only 70,000 acres are currently protected. With the Critical Dunes laws only applying to 30% of the dunes today, that means 70% are already unregulated. This law would basically add another 10.5% to 13.5% percent to that total, so that **80.5% to 83.5% of dune land would be open to largely unregulated development**. The dunes enrolled in within the program are the best, most iconic, and most precious to the state, and, thus, deserve additional oversight and protection.

Improvements to the Sand Dune Program

We understand the desire to improve the sand dunes program. Some claim this bill is intended to address the threat of "takings." However, "takings" applies only to a set of specific and identifiable parcels that were platted prior to the law's implementation and which lie entirely or nearly entirely lakeward of the crest of the dune nearest the lake. This issue could be resolved with a word or two changed in the law rather than a wholesale rewrite.

If you wish to refine the program, we recommend improving it in the following ways:

- 1) Ensure that each proposed project is thoroughly reviewed and that the law is administered to accomplish the goals of the statute—that is to protect sand dune ecosystems;
- 2) Increase enforcement measures—not only to ensure permit compliance but also prosecution of violators;
- 3) Improve coordination with the DNR Wildlife Division and the U.S. Fish and Wildlife Service regarding threatened and endangered species; and
- 4) In an effort to reduce the damaging effects of sand dune mining and other developments, encourage inland (non coastal dune) development as an alternative.

Conclusion

We fully oppose the attempt to weaken the Sand Dune Protection Act. Michigan's extensive sand dunes are part of our cultural identity. Despite their natural and economic values, some of these extraordinary dunes are steadily vanishing as development continues. Once gone, these magnificent natural attractions cannot be recreated. We should not be making it easier for dunes to disappear. Rather, we should be developing methods to stem their loss. Exemptions, such as those proposed in the bill, serve to continue the rapid rate of disappearance of our dunes. Tip of the Mitt Watershed Council does not support any exemptions that will result in a loss of Michigan's critical dunes. Maintaining dune protection is an investment that will be returned in benefits to the individuals who live along the shoreline and within the dunes, as well as all residents of Michigan and the visitors who come to play along our golden shores.

On behalf of the board, staff, and members of Tip of the Mitt Watershed Council, Thank you for the opportunity to share these comments with you.

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